

Daniel L. Wainwright, # 193486  
McCormick, Barstow, Sheppard  
Wayte & Carruth LLP  
P.O. Box 28912  
5 River Park Place East  
Fresno, CA 93720-1501  
Telephone: (559) 433-1300  
Facsimile: (559) 433-2300

Attorneys for Defendant  
JOHN J. HOLLENBACK, JR.

(SPACE BELOW FOR FILING STAMP ONLY)

**FILED**  
MAY 08 2007  
CLERK, U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
BY \_\_\_\_\_ DEPUTY CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT

MELVIN JONES, JR.,

Plaintiff,

v.

JOHN J. HOLLENBACK, JR.,

Defendant.

Case No. F-05-0148 OWW DLB

**ORDER OF THE COURT REGARDING  
THE PARTIES' MOTIONS *IN LIMINE***

**Hearing Date: May 1, 2007**

**Time: 12:00 p.m.**

**Dept. 3**

**The Honorable Judge Wanger**

**Trial Date: May 8, 2007**

On Monday, May 1, 2007, 2007 at 12:00 p.m. the parties pre-trial Motions in Limine came before this Court. Counsel for defendant, Daniel L. Wainwright, was present as was plaintiff, who is acting in pro per.

The Court having reviewed and considered the parties Motions in Limine, all Opposition on file and all oral argument presented during the May 1, 2007 hearing hereby ORDERS, the following:

**Plaintiff's Motions in Limine**

1. The Court GRANTS plaintiff's Motion regarding the exclusion of evidence of

1 plaintiff's November 1, 1984 Cal. Penal Code §§484-487 conviction.

2 2. The Court DENIES plaintiff's Motion regarding the exclusion of evidence  
3 pertaining to plaintiff's December 13, 1995 fraud conviction pursuant to Cal. Penal Code §476(a).

4 3. The Court DENIES, in part, plaintiff's Motion regarding the exclusion of evidence  
5 pertaining to the domestic violence conviction of plaintiff, for purpose of establishing possible  
6 bias on the part of plaintiff and the victim of said domestic violence, Kea Chhay.

7 **Defendant's Motions in Limine**

8 1. The Court GRANTS Defendant's Motion regarding the preclusion of any  
9 discussions regarding prior Court rulings and/or orders in this case.

10 2. The Court GRANTS Defendant's Motion precluding the introduction of any  
11 argument, testimony or evidence regarding discussions between defense counsel and Plaintiff.

12 3. The Court GRANTS Defendant's Motion to preclude the parties from calling any  
13 witnesses who were not previously identified in discovery or producing any documents not  
14 previously identified during discovery.

15 4. The Court GRANTS, in part, Defendant's Motion regarding Plaintiff testifying as  
16 to what took place during various family law hearings. The Court will permit Plaintiff to testify  
17 as to what he saw, what he did, what he said and/or what he heard (if not subject to another  
18 objection or motion in limine) during the underlying family law hearings. However, Plaintiff is  
19 precluded from offering argument during his testimony as to what he thought the significance of  
20 what took place during the hearings means. Defendant is able to use the audio recordings from  
21 the hearings to refute this testimony, if necessary.

22 5. The Court GRANTS Defendant's Motion requesting that Plaintiff make a  
23 preliminary showing of relevance before introducing evidence pertaining to actions that took  
24 place before Defendant's involvement in the family law case. The Court has ordered that  
25 Plaintiff provide a "offer of proof" regarding each statement, purportedly part of this conspiracy,  
26 that occurred before January 21, 2004. The "offer of proof" will be e-mailed to the Court and  
27 defense counsel no later than 4:00 p.m. on Thursday, May 3, 2007. The parties will appear on  
28 Friday, May 4, 2007 at 2:00 p.m. for further oral argument on this Motion.

1  
2           6.     The Court GRANTS Defendant's Motion to preclude any discussions between the  
3 parties pertaining to settlement.

4           7.     The Court GRANTS, in part, Defendant's Motion to preclude Plaintiff from  
5 offering any expert opinion testimony regarding his earning potential. Plaintiff will be permitted  
6 to testify regarding his employment history, earnings history, job prospects, W-2's, tax returns,  
7 etc. However, Plaintiff is precluded from offering any opinions from third parties with respect to  
8 his past and future earning potential and capacity.

9           8.     The Court DENIES Defendant's Motion regarding whether or not Plaintiff can  
10 introduce any evidence from the immune judicial officers in order to support his claim of a  
11 conspiracy involving the immune judicial officers and Defendant.

12           9.     The Court GRANTS Defendant's Motion precluding Plaintiff from testifying  
13 regarding any inadmissible hearsay statements which, arguably, would be admissible pursuant to  
14 the hearsay exceptions set forth in FRE 801(d)(2)(E). The Court has ordered that Plaintiff set  
15 forth a "offer of proof" (to be e-mailed to the Court and the parties no later than 4:00 p.m. on  
16 Thursday, May 3, 2007 which must establish, by preponderance of the evidence, the existence of  
17 a conspiracy, the foundation that Defendant had knowledge of the purported statements and  
18 adopted the same, the purpose of the statement was to facilitate the conspiracy and establish how  
19 the statement furthered the conspiracy.

20           10.    The Court GRANTS Defendant's Motion to preclude any reference that any of the  
21 witnesses or parties have been represented by legal counsel.

22           11.    The Court GRANTS Defendant's Motion precluding any reference to the fact that  
23 Defendant had previously sought monetary sanctions with respect to Plaintiff's earlier discovery  
24 motion regarding request for admissions. This is consistent with the Court's ruling on  
25 Defendant's Motion in Limine No. 1, set forth above.

26           12.    The Court GRANTS ~~any~~ Defendant's motion precluding Plaintiff from suggesting  
27 that Leslie Jensen's non-appearance at an earlier federal hearing was part of some ongoing  
28 conspiracy as this is irrelevant.

1           13.     The Court GRANTS Defendant's Motion precluding Plaintiff from commenting  
2 upon the fact that Defendant did not attend Plaintiff's February 26, 2007 deposition.

3           14.     The Court GRANTS Defendant's Motion precluding Plaintiff from commenting  
4 upon the size of either Defendant's law firm or the law firm representing Defendant.

5           15.     The Court DENIES Defendant's Motion to preclude any testimony regarding  
6 whether or not Plaintiff is a "deadbeat" Dad as this would be potentially relevant to show bias or  
7 some other personal animus.

8           16.     The Court GRANTS, in part, Defendant's Motion regarding the parties and/or  
9 witnesses' ability to assert privileges without any negative inference. However, the Court does  
10 permit Plaintiff to inquire as to any professional relationship between Leslie Jensen and Donald  
11 Strangio and the length of any such professional relationship. Plaintiff is precluded from  
12 questioning regarding the specific nature of said professional relationship, if any.

13           17.     The Court GRANTS Defendant's Motion to preclude any reference of the fact that  
14 Leslie Jensen was previously represented by an attorney from the McCormick, Barstow law firm.

15           18.     The Court GRANTS Defendant's Motion to preclude Plaintiff from stating,  
16 suggesting or implying that any changes to the Stanislaus County Superior Courthouse were the  
17 result of his complaints as this is speculative.

18           19.     The Court GRANTS Defendant's Motion to preclude Plaintiff from referencing  
19 any testimony from Rosalind Jones regarding any of the events that are the subject of this  
20 litigation.

21           20.     The Court GRANTS Defendant's Motion to preclude Plaintiff from stating or  
22 arguing that Defendant did, in fact, contact the Stanislaus County Housing Authority with respect  
23 to his prospective employment. Plaintiff is permitted to testify as to what Defendant purportedly  
24 said to him with respect to the Stanislaus County Housing Authority but cannot introduce  
25 evidence that Defendant actually did contact the Stanislaus County Housing Authority.

26           21.     The Court GRANTS, in part, Defendant's Motion to preclude Plaintiff from  
27 stating, suggesting or introducing any evidence regarding a hearsay declarant's attempt to  
28 implicate other individuals or entities into this race-based conspiracy. The same "offer of proof"



1 as set forth in the Court's ruling in Defendant's Motion in Limine Nos. 5 and 9. Again, it is  
2 ordered that Plaintiff submit this "offer of proof," via e-mail, no later than 4:00 p.m. Thursday,  
3 May 3, 2007. The parties will then appear for further argument on this Motion on Friday, May 4,  
4 2007 at 2:00 p.m.

5 22. This Motion is MOOT as the parties have agreed to produce, as a joint exhibit,  
6 excerpts from the January 22, 2004, April 15, 2004 and April 22, 2004 family law hearings for  
7 the Court. In addition, the parties agree to submit "transcripts" from these hearings in order to  
8 assist the jurors in listening to and comprehending the audio cassettes.

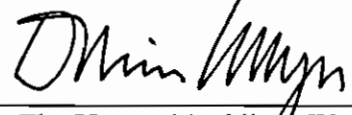
9 23. The Court GRANTS Defendant's Motion to preclude Plaintiff from discussing the  
10 wealth or poverty of either himself or Defendant. Such testimony, with respect to the Defendant,  
11 would only be permitted after a finding of liability on the part of Defendant. Plaintiff is permitted  
12 to introduce evidence as to his damages.

13 24. The Court GRANTS Defendant's Motion to preclude Plaintiff from appealing to  
14 the passions and prejudice of the jurors.

15 25. This Motion has been MOOTED by the Court's 4/25/07 Court ruling (followed up  
16 on 4/27/07 with a formal opinion) regarding the testimony of Judge Marie Solvey-Silveira and  
17 Michael Tozzi.

18 26. The Court GRANTS Defendant's Motion precluding Plaintiff from commenting  
19 upon the fact that neither Judge Glen Ritchey nor Jack Jacobson have testified in this case.

20 DATED: May 8, 2007

  
The Honorable Oliver Wanger